Whale Plan Update

NOAA National Marine Fisheries Service/Northeast May 2001 (v.2 n.1)

TRT Meeting Scheduled

The National Marine Fisheries Service has retained RESOLVE Inc. to facilitate a Take Reduction Team meeting June 27 and 28 in Portland, Maine. This will be a meeting of the full Atlantic Large Whale Take Reduction Team.

Topics for this meeting include:

* Plans developed by the states

* New gear modifications including: Reduced offshore weak link breaking strength based on load cell tests; Mid-Atlantic and SE gear changes recommended by the sub-groups

* The 2001 implementation of the Dynamic Area Management response to right whale aggregations outside critical habitat. The Northeast Fisheries Science Center Reference Document that describes the issues and options for such a response ("Defining Triggers for Temporary Closures to Protect Right Whales from Entanglements: Issues and Options") is available at the large whale plan website (www.nero.nmfs.gov/whaletrp/).

* Development of Seasonal Area Management protection zones that correspond to the annual migration of right whales from Cape Cod Bay to Georges Bank (see page 5).

* Discussion of requirements for lobster and gillnet gear in seasonal and dynamic management areas.

Whale Protection 2001

New Gear Requirements

Requirements designed to make lobster and gillnet gear safer for whales became effective February 21, 2001. The modifications were recommended by the TRT in May, 2000.

New gear restrictions for the lobster trap fishery in the federal-water portion of EEZ Management Areas 1 and 2 and the Outer Cape Lobster Management Area include:

* knotless weak links at the buoy with a breaking strength of 600 pounds or less;
* prohibition on single trap trawls;
* limit of one buoy line on all trawls up to and including five traps;

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Right Whale Baby Boom

The 2001 calving season brought good news for those working hard for the protection of right whales. Survey crews working off Georgia and Florida observed a record total of 30 calves between December and March.

This banner year for right whales follows three years of distressingly low sightings: one confirmed calf sighting last year; four in 1999; and five in 1998. The appearance of so many right whale calves gives us every reason to intensify efforts to protect these animals from entanglements and ship strikes.

NMFS issued a news release on the births in January when the good-news number was 14 calves; see that release on the whale plan website for some thoughts on what the births might mean for the species' prospects for recovery.

Three Right Whales Die

The carcass of a young male right whale (25 feet long) was found March 17 on an island beach off Virginia. A multi-agency team necropsied the animal and took biological samples. The carcass had several deep cuts consistent with injuries from a boat propellor. Analysis of the biological samples may determine whether the external wounds were the cause of death and whether there were other contributing factors. A final report will be issued with findings as to the cause of death.

This is the third confirmed right whale mortality in 2001. The first, which is thought to be a calf, was observed floating dead off Florida in January. Attempts to recover the carcass failed. The second was a floating, dead calf sighted and photographed by a passenger on a sport fishing boat off the coast of South Carolina in mid-March. The carcass was not recovered. (A news release on the right whale deaths is also available on the whale plan web page under "What's New".)

(**Whale Protection 2001** *continued from page 1)*

* and a requirement for gear marking midway on the buoy line (red-4" long).

New gear requirements for offshore lobster waters include:

* knotless weak links at the buoy with a breaking strength of 3780 pounds or less;
* and gear marking midway on the buoy line (black-4" long).

New gear requirements for lobster trap gear in both state and federal zones of EEZ Nearshore Management Areas 4 and 5 include:
* change in dates for gear requirements (October 1 to April 30);
* changes to the lobster take reduction technology list (reduction in maximum strength of the buoy weak link to 600 pounds and requirement that this link be knotless);
* and a requirement for gear marking midway on the buoy line (orange-4" long).

New gear requirements for sink gillnet fisheries east of 72°30' W longitude:
* knotless weak link at the buoy with a maximum breaking strength of 1100 pounds;
* weak links (no greater than 1100 pounds) placed in the headrope (floatline) at the center of each net panel;
* net strings that contain 20 net panels or fewer must be anchored with one of three specified anchoring systems: (i) dead weights weighing at least 50 pounds at each end of the net string, (ii) anchors with the holding power of at least a 22 pound Danforth-style anchor at each end of the net string, or (iii) a lead line weight at least 100 pounds per 300 feet for each net panel in the next string;
* gear marking midway on the buoy line (green-4" long).

Descriptions and pictures of the gear modifications can be found on the whale plan web site (see "Summary of 2001 Modifications" and other entries under the sub-heading "About the Plan.")

Gear Research and Testing

Since 1997, NMFS Protected Resource Division Gear Research Team (GRT), Glenn Salvador and John Kenney, has been involved in research projects investigating ways to reduce entanglement of large whales, principally right whales. The GRT has been active in field testing of promising devices and/or procedures developed by gear engineers, fishermen, and others interested in whale protection.

NMFS base program funding for FY01 did not include money for gear research. Consequently, the GRT submitted proposals to the Northeast Consortium (NEC) for review under a fast-track proposal review process. The Northeast Consortium Advisory Committee's Right Whale Panel supported the proposed work and recommended funding in the amount requested ($163,000).

Several lines of gear research at NMFS are continuing in 2001:
* load cell data collection on offshore lobster buoy systems
* neutrally buoyant line as an alternative for floating poly ground lines
* knotless weak links for surface buoy systems
* float line technology for gillnets that eliminates the need for external floats
* the use of an acoustic signal to trigger the release of buoy and hauling line from the bottom (and therefore reduce vertical lines in the water column).

Quick Response Mini - Project Funds

NMFS is continuing the Quick Response Mini-Project in 2001 with funds from the $163,000 received from the NEC for gear research. This program provides funds to quickly evaluate low-cost gear modification ideas suggested by industry to reduce the risk of entanglement. These projects, typically initiated by fishermen, have included sinking line experiments in Cape Cod Bay and the Gulf of Maine, weak link swivels for surface systems, galvanic time-released links for buoy lines, natural fiber line experiments, and investigation of surface buoy systems in the offshore lobster industry in the GOM.

Gear Research in Massachusetts

The Division of Marine Fisheries (DMF) is managing an experimental fishery in Cape Cod Bay through May 15, 2001. The testing of modified lobster gear buoy lines is the focus of the action. Gear modifications under study include: pop-up buoys which utilize a galvanic time release, biodegradable tag lines and reduced strength break away line.

Gear Ideas Still Needed

The fishing industry is encouraged to formulate gear research concepts to reduce entanglements. Funding in 2001 and beyond is available through the NMFS Mini-Project Program mentioned above and through the Northeast Consortium, which is managing $2.9 million for right whale research in 2001 and beyond.

Dynamic Area Management

The current whale Take Reduction Plan includes time and area closures to protect right whales in areas where they concentrate seasonally (these are the identified as “critical habitat” areas). But right whales also forage outside these areas, and they sometimes congregate temporarily in other areas. Gear restrictions published in December 2000 modify lobster and gillnet gear year-round throughout the Gulf of Maine and provide some protection over a wide range of waters, but NMFS and the TRT have agreed that more protection is needed when right whales congregate outside the known critical habitat areas.

In April and May of 2000, the TRT discussed the question of what would trigger a closure under a dynamic management plan. The team provided recommendations on protocols and “triggering mechanisms,” but did not reach consensus on a triggering mechanism or the question of how to determine the size of the area to be closed. At the May, 2000 meeting, the TRT recommended that NMFS prepare a proposed dynamic area management rule. Since that time, NMFS has determined that there is adequate authority under the 1999 Atlantic Large Whale Take Reduction Plan regulations to employ dynamic area management. Given the critically endangered status of right whales, NMFS has used that authority this year to further protect an aggregation of right whales. Dynamic area management restrictions were put in place for Wilkinson Basin, 40 nautical miles northeast of Provincetown, Mass., prohibiting gillnets and requiring lobster fishermen to reduce their vertical buoy lines by 50%. The restriction took effect on May 13 and remains in effect through May 28, 2001.

The Northeast Fisheries Science Center has reviewed historical right whale sighting data and 1999 and 2000 aerial survey data, and has developed a triggering mechanism that can be used on a case-by-case basis this year in response to right whale concentrations. This triggering mechanism is explained in a letter that has been sent to TRT members and other interested parties in anticipation of the next TRT meeting. The letter is also

posted on the whale plan web site, along with a NOAA Fisheries document describing the dynamic area management issues and options (See "Whale Protection for 2001 and Beyond" and "Triggers for Temporary Closures" under "What's New"). Details of 2001 Dynamic Area Management closures will be discussed with the TRT at the June 27-28 meeting.

Three New England states have developed preliminary proposals for dynamic area management. If right whales are found to be congregating this year in state waters (outside designated critical habitat areas), prompt action by the state may preclude the need for NMFS to enact protections. These proposed state plans will also be considered and discussed at the next TRT meeting.

Additional Measures for Consideration

NMFS will ask the TRT to consider a number of additional gear modifications in 2001. There has already been some TRT discussion of these modifications, which include: revision of the gear technology list and reduction of the offshore buoy line breaking strength from 3780 pounds to a lower threshold, pending load cell results from offshore gear due in May 2001.

The full TRT will also be asked to discuss gear changes recommended by the Mid-Atlantic subgroup for gillnets in the Mid-Atlantic Coastal Water and for pots/traps set in the Southern Nearshore Lobster Waters.

Long Term Management Approach

The ultimate solution to entanglement is fishing gear that allows fishing and whales to coexist. While ideas about safer gear are being developed and tested, other management actions such as additional time/area restrictions may be necessary to protect right whales. At the upcoming TRT meeting, NMFS intends to present for discussion a long-term right whale management strategy that includes a seasonal approach to time/area restrictions.

Seasonal Area Management

Dynamic area management is a reactive approach to the observed presence of right whales. Our ability to protect right whales with dynamic area management depends on our ability to survey potential habitat areas, observe concentrations of animals, and publish Federal Register notices of restrictions rapidly. Effective protection also depends on the ability of the fishing industry to remove or modify gear. Because any or all of these steps can cause delays, Dynamic Area Management is most appropriate for the relatively rare, unpredictable aggregations of right whales.

Survey data to date indicate that the seasonal migration of right whales occurs with some predictability. Right whale distribution during January to June is more predictable than later in the summer and fall. Given that, we believe that NMFS and the TRT can develop a better protective plan for the January to June period in the Gulf of Maine. This would include Cape Cod Bay, "Provincetown Slope," Great South Channel, and the northern edge of Georges Bank ("Provincetown Slope" refers to waters between the BB buoy and Davis Bank, from the shore of Cape Cod out to the 100 fathom contour.)

Typically, from January to June right whales move from Cape Cod Bay down the Provincetown Slope

to the Great South Channel and then along the northern edge of Georges. This area could be segmented into protection zones for specific time periods that overlap to some degree. NMFS survey effort could focus on the zones progressively (west to east) to determine when the whales have left the western-most protection zone. Once whales have left, the area can be opened and survey effort would then focus on the next zone to the east.

A discussion paper on Seasonal Area Management is being prepared for the June TRT meeting. The results of that meeting, and the results of the 2001 surveys, will be used as the basis for a developing this long-term management idea for right whale protection.

Disentanglement Training

In February Bob Bowman and David Mattila (Center for Coastal Studies) taught classes in advanced disentanglement for Maine fishermen at three sites (Ellsworth, Rockland, and Portland). The four-and-one-half hour sessions brought attendees to Level II of the three level disentanglement training program. Approximately 50 people were trained, including more than 20 fishermen and more than 10 Maine Marine Patrol employees. CCS also continues to provide training sessions at USCG stations along the East Coast.

Entanglements and Disentanglements

2000 Wrap-Up

The most recent entanglement report showed seven confirmed sightings of right whales entangled in gear in 2000. ("Confirmed" means that a live whale was documented in gear or that a whale carcass was documented with gear on it.) One of the seven entangled right whales was dead when it was first observed, but the carcass could not be recovered and the cause of death has not been determined (this was animal #2701, sighted January 19, 2000, southeast of Block Island).

The number of confirmed sightings of all large whales entangled in gear in 2000 is 21 live animals and four that were dead when first sighted. The live entanglements include 13 humpbacks and two minke whales. The four dead entangled animals were one right whale (#2701), one humpback, one minke, and one large whale (species unknown).

In the four years from 1997-2000, the total confirmed entanglements are now: 26 right whales, including one dead animal (#2701) and one (#2030) that is known to have died as a result of entanglement. In those four years, there have been 90 confirmed sightings of large whales entangled in gear (26 right whales, 38 humpbacks, 9 fin whales, 12 minkes, and 5 unidentified large whales).

2001 Reports To Date

Through the first three months of 2001, the Center for Coastal Studies reported two attempts to

disentangle a right whale in Cape Cod Bay. This animal is right whale #2223, a nine-year-old female nicknamed "Calvin." She was first sighted with this entanglement last summer in the Bay of Fundy. In March CCS attempted on two occasions to cut a line crossing the back of the whale, but the disentanglement team was not able to cut the line. The team did attach a buoy with a satellite/Vhf tag to an entangling line and they have tracked the whale's movements. The results are available on a public website (http://www.coastalstudies.org/rescue/wherescalvin.htm). Calvin was last reported, by satellite, at position 41E46.56'N latitude - 68E 09.60'W longitude on May 4, 2001. The buoy was recovered at position 41E40.4' N latitude - 68E 24.73' W longitude. The buoy was damaged and an investigation is underway to examine the additional 99 feet of line recovered with the buoy. A total of 222 feet of line has been removed from the animal. It is believed the whale is still entangled, and her status is uncertain, pending new observations.

To date, there have been four reports of entangled juvenile humpbacks and one report of a ship struck humpback, all in the Mid-Atlantic in 2001. On January 25, a humpback was found stranded dead in Avon, North Carolina with injuries consistent with ship strike. In February a juvenile humpback became entangled in gillnet gear near Cape Hatteras, North Carolina. The whale was snagged in the gear for about an hour before it managed to free itself. On April 8th two humpbacks were reported stranded in South Carolina. One was near Myrtle Beach and the other was at Emerald Isle. One animal stranded live and subsequently died; preliminary necropsy results indicate that entanglement, emaciation, and ship strike contributed to the death. The other whale stranded dead and had evidence of entanglement near the tail. On April 9th, a young humpback was found floating dead in coastal gillnet gear offshore in Virginia Beach, Virginia.

Ship strikes likely contributed to the deaths of two fin whales earlier this year in January and February. Both were found floating near New York Harbor and both exhibited injuries consistent with pre-mortem ship strike. The results of histological studies are pending.

Surveys, Ship Strikes, and the Sighting Advisory System (SAS)

The 2001 sighting advisory system (SAS) aerial flights began March 29. As of May 17, we have had 21 SAS flights totaling 132 hours. The flights have surveyed Great South Channel, Block Island Sound, Stellwagen Bank, south of Long Island, and waters of northern New Jersey.

SAS flights in 2001 have resulted in 133 right whale sightings. Other sightings include: 99 humpbacks, 47 fin whales, and 11 minkes (all preliminary data).

The SAS system has generated 53 right whale alerts covering an area from South Carolina north to the Gulf of Maine. The alerts go out via faxes and emails to ships, shipping agents, pilots, the US Coast Guard, NOAA Weather Radio, the Army Corps of Engineers, the Navy, and the Mandatory Ship Reporting System.

The Northeast Fisheries Science Center has redesigned its aerial survey for right whales. Flights began on March 20. The center's improved aerial survey will provide information on right whale distribution that will help with the design of a seasonal area management plan.

As of April 25, the center scientists had completed 7 survey flights totaling 36 hours, with 11 right whale sightings recorded.

In addition to the SAS and science center flights, other recent activities to address the ship strike problem include:

* The Ship Strike Committee of the Northeast Recovery Plan Implementation Team, chaired by Bruce Russell and Amy Knowlton, held a workshop with shipping industry and port authority representatives, conservation organizations, fishermen, and others at the Coast Guard Academy in New London, Connecticut, April 10-11. The committee is now preparing a report with recommendations on how to reduce the likelihood of ship strikes with large whales.

* The Massachusetts Division of Marine Fisheries and the Center for Coastal Studies began aerial surveys of Cape Cod Bay in mid- December 2000.

* The CCS R/V *Shearwater* has been conducting habitat and bay monitoring surveys in Cape Cod Bay since January, with funding from the Massachusetts Environmental Trust (MET).

* A small number of right whale aerial surveys of waters off North and South Carolina were funded by NMFS' Southeast Fisheries Science Center and conducted by the University of North Carolina Wilmington; the surveys resulted in the first sighting of at least one of the 30 calves.

* Right whale ship strike briefings were given at: North Atlantic Maritime Organization annual meeting in Boston (October); the East Coast Regional Marine Transportation System Conference in Norfolk (December); Thames River Maritime Coalition in New London (February); and at port meetings in Boston, Portland, Providence and New London.

* A contract was awarded for an economic analysis of the impact of right whale ship strike management options — very preliminary data and a preliminary economic model were presented at the Ship Strike Workshop in New London in April.

Forums

Hundreds of fishermen stopped by the NMFS booth at this winter's Massachusetts Lobstermen Association Forum (January, in Falmouth) and the Maine Fisherman's Forum (February, in Rockport). The fishermen talked with NMFS staff about ALWTRP gear regulations and looked at examples of gear that offer different ways to comply with the new regulations.

"I left both forums with the feeling that fishermen are onboard with the gear requirements," reports Glenn Salvador, the NMFS whale plan coordinator in Maine.

Right Whale Recovery Plan

NMFS staff has prepared an updated right whale recovery plan. That draft is currently undergoing internal agency review. Following that internal review, the draft plan will be available for public comment. Following the comment period, NMFS will review all comments submitted and finalize the recovery plan. The updated recovery plan will provide a roadmap for protection efforts and criteria to evaluate the effectiveness of efforts to recover right whales.

First drafted in 1991, the Right Whale Recovery Plan was developed under the Endangered Spe-

cies Act and is distinct from the ALWTRP, which is required by the Marine Mamal Protection Act.

Litigation Update

National Marine Fisheries Service

In mid-March, the Conservation Law Foundation (CLF) and the Humane Society of the United States (HSUS) filed a motion asking the court to order NMFS to complete reinitiated Section 7 consultations on four fishery management plans (FMP) under the Endangered Species Act by May 31. The consultations were reinitiated in 2000 to determine if the ALWTRP removes the potential for these fisheries to jeopardize the continued existence of right whales.

NMFS is completing the biological opinions on the: Multispecies FMP, Monkfish FMP, Dogfish FMP and the Lobster FMP.

A hearing was held on April 19, 2001 at which Judge Woodlock ordered NMFS to complete all of the requested biological opinions by June 15. A follow up hearing is scheduled for June 18, 2001.

Commonwealth of Massachusetts

The Commonwealth of Massachusetts, CLF and the Massachusetts Lobsterman's Association have crafted a settlement agreement in an attempt to dismiss the case Strahan v. Coxe. As part of the agreement, further modifications to lobster gear are required to reduce the threat of entanglement. The most substantive change would be eliminating the use of floating groundline year-round in all of Cape Cod Bay by 2004, and within the Critical Habitat by 2003. Fishermen are now testing new buoy line configurations (breakaway links, galvanic releases, etc.) for possible future adoption as well.

The gillnet fishery would be subject to temporary prohibitions in response to right whale aggregations during the "non-critical habitat" season (May 16 - December 31) in an effort to further protect right whales from entanglement.

Staffing Changes

In December, 2000, Chris Mantzaris was promoted to deputy regional administrator, replacing retiring deputy Jon Rittgers. In his previous post as assistant regional administrator, Mantzaris led the Northeast Region's Protected Resources Division. As deputy RA, Mantzaris is second in charge of all NMFS operations in the Northeast Regional Office. Mantzaris will continue to be involved in whale protection issues in his new position.

When Mantzaris moved into the Deputy's office, Mary Colligan took over leadership of the Protected Resources Division. Colligan is now the acting division chief. She will continue to perform her regular duties as the NE Region's endangered species coordinator.

NMFS fisheries biologist Doug Beach retired May 3, 2001 — thirty years to the day from when he started working for NMFS. Doug has been the Northeast Region's large whale coordinator and has led the agency's effort to develop a Take Reduction Plan since the 1994 MMPA ammendments called for Take Reduction Teams and Take Reduction Plans.

Gregg LaMontagne is the new large whale coordinator. Gregg is a lieutenant commander in the NOAA Corps, with 17 years experience staffing NOAA ships and aircraft. He has been a policy analyst with the NMFS Northeast Region Protected Resources Division since 1999.